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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

10 KRISTIN HARDY,   Case No. 1:21-cv-00327-DAD-EPG (PC)

              Plaintiff,   ORDER GRANTING PLAINTIFF'S
11   RENEWED MOTION FOR LEAVE TO
        v.   AMEND
12
    R. MORENO, et al.,   (ECF No. 41)
13
              Defendants.   SCREENING ORDER
14
                                                      ORDER DIRECTING CLERK TO
15   DOCKET LODGED SECOND
                                                      AMENDED COMPLAINT (ECF NO. 35)
16
                                                      ORDER DIRECTING CLERK TO
17   SERVE COPY OF THIS ORDER AND
                                                      COPY OF LODGED SECOND
18   AMENDED COMPLAINT (ECF NO. 35)
                                                      ON DEFENDANT CEBALLOS
19

20   Kristin Hardy ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in

21 this civil rights action filed pursuant to 42 U.S.C. § 1983.

22   On November 16, 2021, District Judge Dale A. Drozd found that Plaintiff's First

23 Amended Complaint ("FAC") should proceed on Plaintiff's unreasonable search and seizure

24 claims against defendants Valencia, Moreno, Chavez, Dohs, and Ceballos, based on Plaintiff's

25 allegations that after he was subjected to a full body scan, he was immediately subjected to an

26 additional strip search without obvious justification. (ECF No. 22). All other claims and

27 defendants were dismissed. (Id.).

28   On January 26, 2022, Plaintiff filed a motion for leave to amend, along with a Proposed

1   Second Amended Complaint. (ECF Nos. 34 & 35). The Court denied Plaintiff's motion

2   because Plaintiff failed to explain the changes that he was attempting to make to his complaint,

3   but gave Plaintiff leave to renew the motion with this explanation. (ECF No. 36).

4   On February 9, 2022, Plaintiff renewed his motion for leave to amend. (ECF No. 41).

5   Plaintiff explains that he is attempting to amend his First Amended Complaint ("FAC") to

6   "accurately reflect the remaining claim and defendants." Plaintiff "merely seeks to 'clean up'

7   his FAC…." (Id. at 3).

8   Courts "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P.

9   15(a)(2). "[T]his policy is to be applied with extreme liberality." Morongo Band of Mission

10   Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990); see also Waldrip v. Hall, 548 F.3d 729,

11   732 (9th Cir. 2008). "However, liberality in granting leave to amend is subject to several

12   limitations. Those limitations include undue prejudice to the opposing party, bad faith by the

13   movant, futility, and undue delay." Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc., 637

14   F.3d 1047, 1058 (9th Cir. 2011) (citations and internal quotation marks omitted); see also

15   Waldrip, 548 F.3d at 732.

16   Given the stage of this case, and that Plaintiff is only seeking to amend his FAC to

17   remove the claims and defendants that the Court dismissed, the Court will grant Plaintiff's

18   motion. Additionally, for the reasons stated in Judge Drozd's screening order filed on

19   November 16, 2021 (ECF No. 22), the Court finds that this case should continue to proceed on

20   Plaintiff's unreasonable search and seizure claims against defendants Valencia, Moreno,

21   Chavez, Dohs, and Ceballos, based on Plaintiff's allegations that after he was subjected to a full

22   body scan, he was immediately subjected to an additional strip search without obvious

23   justification.

24   Accordingly, based on the foregoing, IT IS ORDERED that:

25   1.   Plaintiff's renewed motion for leave to amend is GRANTED;

26   2.   The Clerk of Court is directed to file Plaintiff's lodged Second Amended

27   Complaint (ECF No. 35);

28   3.   This case continues to proceed on Plaintiff's claims against defendants Valencia,

Moreno, Chavez, Dohs, and Ceballos for violation of Plaintiff's right against unreasonable search and seizure;

4. The Clerk of Court is directed to mail a copy of this order and Plaintiff's lodged amended complaint (ECF No. 35) to defendant Ceballos at the confidential address listed in ECF No. 37-1. The Clerk of Court shall not disclose this address on the docket entry; and

5. Defendants have until March 9, 2022, to respond to Plaintiff's Second Amended Complaint.

IT IS SO ORDERED.

Dated: **February 11, 2022**   /s/ *Erica P. Grosjean*

UNITED STATES MAGISTRATE JUDGE